FARAD CONTINUATION SHEET.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.
WRIT PETITION NO. 579 OF 2006.

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

CORAM: J.N.PATEL & A.H.JOSHI,JJ.
DATED : 14th February, 2006.

The learned A. G. P. is tendering affidavit in reply on behalf of respondent Nos. 1 and 2, copy of which is furnished to the learned counsel for the petitioner. Reply be filed in the Office during the course of the day.

Heard learned counsel for the petitioner. We have gone through the reply filed.

The respondent-State has filed its reply and copy of the order has also been annexed to the reply, which

has been passed on 25.01.2006. In view of this, nothing survives in the petition.

The petitioner is at liberty to prefer statutory appeal before the R.D.M.A. within two weeks from the date of disposal of this petition and on such appeal being presented, the R.D.M.A. will decide the appeal in accordance with law on or before 30th April, 2006.

Another apprehension of the learned counsel for the petitioner is that the appellate Authority, rather than deciding the matter, may remand the matter back to the Collector, which was subject matter of challenge in this petition. We do not want to interfere with the discretion that vests with the appellate Authority but note should be taken by the appellate

Authority that order of remand is to be passed in exceptional cases keeping in view the principle laid down in Order 41 Rule 23 of C.P.C. The appellate Authority i.e. R.D.M.A. sits in appeal over the Collector's order. It can examine the facts and law of the issues involved in the appeal and take decision in accordance with law and it is only in exceptional circumstances that the appeal be disposed of by remitting the matter back to the Authority, which has decided the case. This sufficiently safeguards the interest of justice.

The petition stands disposed of.

JUDGE JUDGE

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